

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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**IN RE MOTION TO COMPEL  
COMPLIANCE WITH RULE 45  
SUBPOENA ISSUED TO ETHICARE  
ADVISORS, INC.**

Case No. 2:20-cv-01886-WJM-MF

**OPPOSITION OF RESPONDENT  
ETHICARE ADVISORS, INC. TO  
MOTION TO COMPEL**

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**DECLARATION OF MATTHEW MIKULSKI  
IN OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL**

I, Matthew Mikulski, hereby declare under penalty of perjury as follows:

1. I am employed by Zelis Claims Integrity, LLC, a wholly owned subsidiary of Zelis Healthcare, LLC ("Zelis") that acquired Ethicare Advisors, Inc. ("Ethicare") in 2017, as Chief Operating Officer. I am over twenty-one years of age and am authorized to make this Declaration on behalf of Zelis and myself.
2. I submit this Declaration in connection with Ethicare's Opposition to Plaintiffs' Motion to Compel in the above-captioned matter.
3. This Declaration is based on my personal knowledge as well as the personal knowledge and information provided by my colleagues and associates at Zelis.
4. Ethicare is a healthcare cost containment company that helps healthcare payers manage costs related to expensive dialysis claims.

5. To achieve these savings, Ethicare uses a proprietary repricing methodology.

6. The repricing methodology generates recommended prices for dialysis-related treatments and services through the execution of a complex formula.

7. The formula takes into account a variety of factors to generate the usual, customary, and reasonable (“UCR”) rate.

8. The UCR rate is the prevailing amount for which providers are typically reimbursed for similar services in a given geographic area.

9. The methodology then compares the UCR rate to the price charged for a treatment or service on a given claim for dialysis benefits, and, to the extent there is any difference between the two amounts, identifies potential savings as a result of repricing to Ethicare’s clients.

10. The repricing methodology is the result of Ethicare’s expertise with respect to which inputs should be included in the UCR rate calculation.

11. Among other factors, Ethicare has carefully determined the appropriate size of the relevant geographic area to be used in calculating the UCR rate.

12. Using this geographic area, the prevailing rates providers in the relevant geographic area charge for a given treatment or service are input into the repricing methodology.

13. The repricing methodology then uses sophisticated statistical analysis to generate the UCR rate.

14. This process entails determining that a rate is (1) usual (*i.e.*, that the fee is usually reimbursed to a provider for that treatment or service); (2) customary (*i.e.*, that the fee falls within the range of fees reimbursed to providers of the same specialty in the geographic area); and (3) reasonable (*i.e.*, meets the market standard for reimbursement).

15. EthiCare consistently refines its repricing methodology.

16. In doing so, EthiCare has sought to develop a process that delivers the most reliable market based price to its client permitted under the law and relevant regulatory guidance.

17. The repricing methodology gives EthiCare an advantage over its competitors in the cost containment industry, which is driven by an imperative to the most appropriate reimbursement recommendation to clients.

18. If one of EthiCare's competitors were able to review the methodology, it could replicate—and thereby eliminate—EthiCare's competitive advantage.

19. Ethicare has scrupulously maintained the methodology's confidentiality.

20. Ethicare has not disclosed its repricing methodology to anyone outside of Ethicare, including its own clients.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 3/16/2020

  
MATTHEW MIKULSKI